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10/510,398	10/05/2004	Alexander Maass	10191/3574	3131

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER	
NGUYEN, CHUONG P	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALEXANDER MAASS

Appeal 2009-002032
Application 10/510,398
Technology Center 3600

Decided:[1] June 1, 2009

Before: WILLIAM F. PATE, III, JENNIFER D. BAHR and LINDA E. HORNER, *Administrative Patent Judges.*

PATE, III, *Administrative Patent Judge.*

DECISION ON APPEAL

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[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

STATEMENT OF CASE

Appellant appeals under 35 U.S.C. § 134 from a rejection of claims 15, 16, 18, 19 and 21-24. App. Br. 2. Claims 1-14 have been cancelled and claims 17, 20, and 25-28 have been withdrawn from consideration. App. Br. 2. We have jurisdiction under 35 U.S.C. § 6(b).

The claims are directed to a method for providing driver information and vehicle intervention when leaving a traffic lane. Claim 15, reproduced below, is illustrative of the claimed subject matter:

> 15. A method for at least one of providing driver information and performing a vehicle intervention when leaving a traffic lane, the method comprising:
>
> recording at least one boundary of the traffic lane;
>
> determining an anticipated track of a vehicle, taking into account a future, anticipated path correction by the driver;
>
> deriving at least one of the driver information and the vehicle intervention from the at least one boundary of the traffic lane and the anticipated track of the vehicle; and
>
> at least one of: a) providing the driver information when the vehicle one of leaves the traffic lane and threatens to leave the traffic lane; and b) performing the vehicle intervention when the vehicle one of leaves the traffic lane and threatens to leave the traffic lane.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Hiwatashi	US 6,370,474 B1	Apr. 9, 2002
Jeon	US 6,487,501 B1	Nov. 26, 2002
Russell	US 6,675,094 B2	Jan. 6, 2004
Breed	WO 00/54008 A1	Sep. 14, 2000

REJECTIONS

Claims 15, 16, 18, and 21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Breed. Ans. 3

Claim 19 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Breed and Hiwatashi. Ans. 4.

Claim 22 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Breed and Jeon. Ans. 5.

Claims 23 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Breed and Russell. Ans. 5.

OPINION

The Examiner contends that Breed discloses "determining an anticipated track of a vehicle, taking into account a future, anticipated path correction by the driver" as required by claim 15. In order to meet this limitation the Examiner cites to exiting a highway or attempting to run off the roadway as the anticipated track of the vehicle, and the driver's control of the vehicle, or the driver's intent to exit, as the anticipated path correction. Ans. 3. The Examiner also implies that if Breed does not teach this feature, the steps of determining the driver intention S140, and determining whether that intent was to change lanes S150, of Jeon also meet this limitation. Ans. 5.

Appellant contends that the limitation should not be interpreted as two independent steps but that the step of determining the anticipated track must take into account the correction that is expected from the driver. App. Br. 9-11; Reply Br. 2-6. We are in agreement with Appellant's construction of claim 15. While both Breed and Jeon take into account a future anticipated

path correction by the driver in their overall methods, neither Breed nor Jeon use this information to determine the anticipated track of the vehicle. In light of the Appellant's Specification a track or path requires at least two points. *See e.g.*, Spec. 9:16; Fig. 5; Reply Br. 3. Determining the driver's intent to, at some point in the future, deviate from the lanes or corridors of Breed or Jeon does not reasonably constitute determining an anticipated track of a vehicle, because it does not involve the determination of any points. Accordingly, since Breed does not disclose each and every element of claim 15, the Examiner's rejection of claims 15, 16, 18 and 21 as being anticipated by Breed cannot be sustained. Since Jeon, Russell, and Hiwatashi do not cure the noted deficiencies of Breed, the Examiner's rejections of claims 19, and 22-24 also cannot be sustained.

REVERSED

vsh

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004